

VZCZCXRO1349
RR RUEHDU RUEHJO RUEHMR
DE RUEHLG #0066/01 0251048
ZNR UUUUU ZZH
R 251048Z JAN 06
FM AMEMBASSY LILONGWE
TO RUEHC/SECSTATE WASHDC 2266
INFO RUEATRS/DEPT OF TREASURY WASHDC 0421
RUEHLMC/MILLENNIUM CHALLENGE CORPORATION WASHDC
RUEHLO/AMEMBASSY LONDON 0186
RUEHFR/AMEMBASSY PARIS 0078
RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
RUEAIIA/CIA WASHDC

UNCLAS SECTION 01 OF 02 LILONGWE 000066

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STATE FOR AF/S
TREASURY FOR INTERNATIONAL AFFAIRS/AFRICA/BEN CUSHMAN
PARIS FOR D'ELIA

E.O. 12958: N/A

TAGS: EFIN ETRD PREL MI

SUBJECT: MALAWI LAWMAKERS CAUTIOUS ABOUT ANTI-MONEY
LAUNDERING BILL

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SUMMARY

¶11. MALAWI'S ANTI-MONEY LAUNDERING BILL HAS LANGUIISHED ON THE EDGES OF PARLIAMENT FOR OVER THREE YEARS. EMBASSY RECENTLY HOSTED AN INFORMAL BRIEFING AND DISCUSSION FOR KEY PARLIAMENTARIANS TO SENSITIZE THEM ON THIS ISSUE, TO HEAR THEIR CONCERNS, AND TO GAUGE THE BILL'S CHANCES OF PASSING AT THE NEXT SITTING. WHILE THE BILL SEEMS LIKELY TO PASS, WE HEARD CONCERNS ABOUT THE POSSIBLE MISUSE OF THE NEW LAW AND ITS INSTITUTIONS FOR POLITICAL PURPOSES. EMBASSY PLANS TO EXTEND ITS OUTREACH EFFORTS TO EDUCATE A BROADER BASE OF LEGISLATORS AND JOURNALISTS ON THIS ISSUE. END SUMMARY.

A Sidelined AML Bill

¶12. A draft anti-money laundering bill was presented to Parliament in June 2002. Members complained that the bill was too complicated, and referred it back to the legal affairs committee with a request that it be simplified. (We also received reports that the Muluzi administration, noted for being aggressively corrupt, asked the legal affairs committee at that time to hold the bill.) Although the bill was not substantially simplified, it was slightly updated and presented again at the last session of Parliament (September/October 2005). During that session, the legislature was preoccupied with a movement to impeach the President and acted on virtually no legislation. The bill was again referred back to committee with no discussion.

Embassy Pushes for Progress

¶13. On January 23, the Ambassador hosted a presentation and discussion on anti-money laundering with select MPs, GOM officials and banking executives. U.S. Treasury experts Carol Kelley, John Peyton, and David Beisner led the presentation, with a response from the chair of the legal affairs committee (and son of the former President), Atupele Muluzi. During the course of the discussion, we sensed that many MPs would support the

bill, though not everyone shared our sense of urgency on the issue. At least some legislators appeared to view this as a "nice to have" law, perhaps necessary to keep the donor community happy but otherwise not particularly compelling. We would attribute this mainly to the fact that, although the banking sector clearly sees Malawi as lagging in AML, and complains about it in the press, neither the GOM nor Parliament has a particularly well-oiled mechanism for receiving legitimate input from the private sector.

¶4. Many of our interlocutors noted that MPs in general are suspicious of the law, fearing that the government will usurp its provisions and institutions, particularly the financial intelligence unit, for political purposes. This fear stems partly from a sharp memory of the Banda dictatorship's misuse of the Forfeiture Act, under which an individual's assets could be seized at the discretion of the minister of finance. Given Malawi's mixed record of establishing truly independent agencies, achieving political isolation for the FIU and other involved institutions will be a challenge. Another source of concern was the question of retroactivity. Senior politicians are generally too canny to dwell on this issue, but given an entrenched tradition of seeking political office for profit, it will have to be taken seriously and addressed preemptively.

Further Engagement

¶5. We came away from the event with an appreciation for the need to engage actively on this issue between now and the (as yet undetermined) next legislative sitting. To that end, we have leveraged the presence of the Treasury

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experts to organize a training session for media professionals next week. We intend to organize a short directed training session on the issue for MPs as well. Finally, as Treasury advisors ramp up for their resident tours here under the Millennium Challenge threshold program, they will assist the GOM in fine-tuning the legislation to facilitate swift passage and implementation.

EASTHAM